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Sent: Wed 3/8/2017 6:13:03 PM
Subject: AIR POLLUTION: EPA looking for deal in Ark. haze litigation

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Published: Wednesday, March 8, 2017

U.S. EPA wants to explore the possibility of settling a tangle of legal challenges to its regional haze rule for Arkansas.

In an unopposed [motion](#) submitted yesterday, the agency asked for a 90-day freeze on all court proceedings, including briefing deadlines, "to allow the parties time to determine whether there is common ground to seek settlement on some or all of the issues in these cases."

The motion, which the 8th U.S. Circuit Court of Appeals approved today, came soon after the agency agreed to administratively reconsider some of the issues raised by Entergy Arkansas and other challengers to the haze rule, which was published in September.

In yesterday's court filing, EPA attorneys said the agency intends to issue a 90-day administrative stay on the parts of the rule now under reconsideration.

The haze regulations are aimed at cutting power plant emissions of sulfur dioxide and nitrogen oxides that worsen visibility in national wilderness areas in Arkansas and Missouri. Among other steps, Entergy Arkansas will have to retool four generating units at two coal-fired plants with sulfur dioxide scrubbers at a projected cost of \$2.2 billion, a company spokeswoman said in September.

EPA's approach has been fiercely opposed by Arkansas elected leaders; state Attorney General Leslie Rutledge (R), who has asked the appellate court to stay implementation, argued in a filing last month that the plan could imperil the reliability of the state's electric grid ([Greenwire](#), Feb. 28).

It's not unusual for EPA either to pursue lawsuit settlement talks or to administratively reconsider complex regulations. The Arkansas litigation involves "seven petitioners, each with different interest and constituents, a complicated collection of issues and a highly technical record," the motion said.

For the Arkansas chapter of the Sierra Club, which had sued to force EPA regulators to issue the haze plan after they found a state blueprint lacking, the preferred option "is to avoid court whenever possible," Director Glen Hooks said in an interview this morning. "If there's an opportunity to reach an agreement, then we're all for it."

Still to be seen, however, is whether EPA's new tack portends a broader shift under newly installed Administrator Scott Pruitt.

As Oklahoma's attorney general, the Republican fought a losing three-year legal battle against a separate set of haze regulations requiring new pollution curbs on Oklahoma power plants. Like many GOP officeholders, Pruitt has complained that EPA under the Obama administration trampled on state prerogatives; during his Senate confirmation hearing in January, he touted "cooperative federalism" as key "to restoring confidence and certainty in those that are regulated."

An EPA spokesman did not respond to an email this morning asking whether Pruitt had any input into the agency's latest moves on the Arkansas haze rule or whether they could be read as emblematic of a more conciliatory style to state concerns.

In a letter to Pruitt yesterday, Rutledge and GOP elected officials from 18 other states sought a "collaborative arrangement" in pursuing the goals of the Clean Air Act and Clean Water Act and singled out a separate fight over a Texas haze rule as antithetical to that approach (*E&E News PM*, March 7).

The regional haze program, which dates back to 1999 in its current form, is intended to restore pristine views in 156 national parks and wilderness areas by 2064.

EPA expects the Arkansas rule to eventually cut yearly releases of sulfur dioxide and nitrogen oxides by 68,500 and 15,100 tons, respectively. Benefiting from the tighter pollution controls will be the Caney Creek Wilderness and the Upper Buffalo Wilderness, both of which are in Arkansas, as well as the Hercules Glades Wilderness and the Mingo National Wildlife Refuge in Missouri, according to the agency.